IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL MISC. APPLICATION NO. 220 OF 2003.

1. Shri Harsh Wahi.

2. Smt. Manjula Wahi,
   residing at:
   408 Veena Chambers,
   Clive Road, Mumbai-400 009. ... Applicants.

VERSUS

1. State of Goa.

2. M/s. Aquarius Pvt. Ltd.
   C-2, Kossambi Bldg.,
   Swatantra Path,
   Vasco-da-Gama, Goa-403 802. ... Respondent.

Mr. S.D. Lotlikar, Senior Advocate with Mr. A.D. Bhobe, Advocate for the Applicants.

Mr. S.N. Sardessai, Public Prosecutor for the State/ Respondent No.1.

Mr. D. Pangam, Advocate for the Respondent No.2.

CORAM: P.V. HARDAS, J.

DATE: 22ND JANUARY, 2004.

ORAL JUDGMENT:

This Criminal Misc. Application under Section 482 of the Code of Criminal Procedure arises against an Order passed by the learned Judicial Magistrate F.C., Vasco-da-Gama, dated 9th September, 2003, in Criminal Case No.32/N/1999/B. With the consent of the learned counsel for the parties, this Criminal Misc. Application is taken up for final hearing at the stage

of admission.

2. An application came to be filed by the present Applicant dated 21st August, 2003 in which it was prayed that the learned counsel representing the complainant could not be allowed to participate in the trial as the cross-examination of the defence witness No.1 disclosed that the said counsel was a material witness to be examined by the accused. The learned Magistrate after giving opportunity to the learned counsel for filing his reply as well as giving an opportunity to the complainant to file his reply by the order which is impugned in the present application, dismissed the application filed by the accused.

3. After hearing the learned counsel for some time, Mr. S.D. Lotlikar, the learned senior counsel appearing for the applicant has very fairly stated that if the applicant/accused proposes to examine Advocate Laad as a witness, the accused may be granted liberty to file an application afresh. In the light of that, the learned counsel for the applicants, states that the applicants may be permitted to withdraw the present application with liberty to file an application afresh after the conclusion of the cross-examination of the defence witness No.1.

4. Mr. Pangam, the learned counsel appearing on behalf of respondent No.2 has no objection if the applicants are permitted to withdraw the application filed by them with liberty to file afresh after the conclusion of the cross-examination of defence witness No.1.

5. In the light of that, the applicants are permitted to withdraw the aforesaid filed by them before the learned Trial Court and consequently the Order passed thereon which is impugned in the present application is hereby quashed and set aside. The applicants are granted liberty as prayed for.

6. Criminal Misc. Application No.220/2003 is accordingly disposed of.

P.V. HARDAS, J.

sl.